

AMENDED IN ASSEMBLY MAY 3, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 2723

Introduced by Assembly Member Wesson

February 25, 2000

An act to amend Sections 111080, 111170, 111175, ~~111180, and 111185~~ *and 111180* of, and to add Sections 111172, 111178, 111192, and 111193 to, the Health and Safety Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 2723, as amended, Wesson. Bottled water.

Existing law contains labeling requirements for bottled water, including requirements relating to the source of the water.

Existing law also contains bottled water quality standards.

This bill ~~would modify labeling requirements pertaining to the source of the water,~~ would enact bottled water contaminant labeling *and notification* requirements, and would make technical nonsubstantive changes in bottled water quality standards.

Under existing law, the State Department of Health Services licenses water bottling plants.

This bill would also permit the department, by written permission, to allow a person to package water for use in public emergencies without obtaining a water bottling plant license, where the emergency has resulted in the

interruption, or has compromised the quality of, the public drinking water supply.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 111080 of the Health and Safety
2 Code is amended to read:
3 111080. The quality standard requirements for
4 bottled water and vended water, including mineral
5 water, shall include all standards prescribed by Section
6 165.110 of Subpart B of Part 165 of Title 21 of the Code of
7 Federal Regulations, except that water labeled as mineral
8 water shall exceed 500 milligrams per liter of total
9 dissolved solids and may exceed the quality standards for
10 chloride, copper, manganese, iron, sulfate, and zinc
11 prescribed in Section 165.110 of Subparagraph B of Part
12 165 of Title 21 of the Code of Federal Regulations. The
13 department may develop additional standards for
14 chloride, copper, manganese, iron, sulfate, or zinc in
15 mineral water that the department determines are
16 reasonably necessary to protect the public health. In
17 addition, bottled water and vended water, when bottled,
18 shall comply with the following quality standards and any
19 additional quality standards adopted by regulation that
20 the department determines are reasonably necessary to
21 protect the public health:
22 (a) Bottled water and vended water shall meet all
23 maximum contaminant levels set for public drinking
24 water that the department determines, after public
25 comment, are necessary or appropriate so that bottled
26 water may present no adverse effect on public health.
27 New or revised maximum contaminant levels or
28 monitoring provisions adopted for bottled water by the
29 United States Food and Drug Administration under the
30 federal Food, Drug and Cosmetic Act that are more
31 stringent than the state requirements for bottled water
32 are incorporated into this chapter and are effective on the

1 date established by the federal provisions unless
2 otherwise established by regulations of the department.

3 (b) Bottled and vended water shall not exceed 10 parts
4 per billion of total trihalomethanes or five parts per
5 billion of lead unless the department establishes a lower
6 level by regulation.

7 (c) Bottled and vended water shall contain no
8 chemicals in concentrations that the United States Food
9 and Drug Administration or the state department has
10 determined may have an adverse effect on public health.

11 (d) Mineral water producers that bottle 5,000 gallons,
12 or less, per week shall have until February 1, 1990, to
13 comply with the quality standards for bottled water
14 pursuant to this paragraph. Mineral water producers may
15 present to the department data on consumption of
16 mineral water and the health effects of inorganic
17 elements that may be present as listed in the bottled
18 water quality standards prescribed by Section 165.110 of
19 Subpart B of Part 165 of Title 21 of the Code of Federal
20 Regulations.

21 SEC. 2. Section 111170 of the Health and Safety Code
22 is amended to read:

23 111170. (a) Labeling and advertising of bottled
24 water and vended water shall conform with this section
25 and Chapter 4 (commencing with Section 110290) and
26 Part 101 of Title 21 of the Code of Federal Regulations.

27 (b) Each container of bottled water sold in this state,
28 each water-vending machine, and each container
29 provided by retail water facilities located in this state shall
30 be clearly labeled in an easily readable format. Retail
31 water facilities that do not provide labeled containers
32 shall post, in a location readily visible to consumers, a sign
33 conveying required label information.

34 (c) Water-vending machines, retail water facilities,
35 and private water sources that sell water at retail shall
36 display in a position clearly visible to customers the
37 following information:

38 (1) The name and address of the operator.

1 (2) The fact that the water is obtained from an
2 approved public water supply or licensed private water
3 source.

4 (3) A statement describing the treatment process
5 used.

6 (4) If no treatment process is utilized a statement to
7 that effect.

8 (5) A telephone number that may be called for further
9 information, service, or complaints.

10 (d) Bottled water may be labeled “drinking water,”
11 notwithstanding the source or characteristics of the
12 water, only if it is processed pursuant to the Food and
13 Drug Administration Good Manufacturing Practices
14 contained in Section 165.110 and Parts 110 and 129 of Title
15 21 of the Code of Federal Regulations, Sections 12235 to
16 12285, inclusive, of Title 17 of the California Code of
17 Regulations, and any other requirements established by
18 the department pursuant to Sections 111145, 111150, and
19 111155. Any vended water and any water from a retail
20 water facility may be labeled “drinking water,”
21 notwithstanding the source or characteristics of the
22 water, only if it is processed pursuant to Article 10
23 (commencing with Section 114200) of Chapter 4 of Part
24 7 and any other requirements established by the
25 department pursuant to Sections 111145, 111150, and
26 111155.

27 SEC. 3. Section 111172 is added to the Health and
28 Safety Code, to read:

29 111172. (a) The labeling on bottled water sold in this
30 state shall include ~~all of the following~~:

31 ~~(1) The date of bottling.~~

32 ~~(2) The statement “refrigerate after opening.”~~

33 ~~(3) A statement describing the treatment process used~~
34 ~~and if no treatment process is utilized a statement to that~~
35 ~~effect.~~

36 ~~(4) The city and state where the water was bottled.~~

37 ~~(5) A a telephone number of the bottler that may be~~
38 ~~called for further information.~~

~~(b) The labeling on bottled water sold in this state may also include additional bottler contact information, including, but not limited to,~~

(b) Any bottler, distributor, vendor of bottled water, or owner or operator of any water-vending machine or retail water facility shall provide notification of, at a minimum, the bottler's street address, website ~~or~~, and E-mail address.

SEC. 4. Section 111175 of the Health and Safety Code is amended to read:

111175. (a) In addition to the requirements of Section 111170, if a bottler, distributor, water hauler, retail water facility operator, or vending machine operator provides information in the labeling or advertising stating or implying that this water is of a specific water type (for example, "spring water") or treated in a specific manner (for example, "purified"), the type or treatment shall be clearly labeled in an easily readable format. In order to be so labeled, the source or treatment shall conform to the following criteria:

(1) "Artesian well water" means water from a well tapping an aquifer in which the water level will stand above the bottom of the confining bed of the aquifer, and in which the hydraulic pressure of the water in the aquifer is greater than the force of gravity. Artesian well water shall not be altered by the addition or deletion of minerals or by blending it with water from a nonartesian well water source, except that artesian well water may be filtered and shall be treated with ozone or an equivalent disinfection process.

(2) "Fluoridated water" means water containing naturally occurring or added fluoride. The label shall specify whether fluoride is naturally occurring or is added. Any water that meets the designation of this paragraph shall contain not less than 1.0 milligrams per liter fluoridization and otherwise comply with the Food and Drug Administration quality standards set forth in Section 165.110(b)(4)(ii)(A) of Title 21 of the Code of Federal Regulations.

1 (3) “Mineral water” means bottled water or vended
2 water containing more than 500 milligrams per liter of
3 total dissolved solids and originating entirely from an
4 underground source, that may be a well, artesian well, or
5 spring. Bottled or vended mineral water may be derived
6 from a natural orifice or from a bore hole adjacent to the
7 natural orifice. If it is derived from a natural orifice or
8 from a bore hole adjacent to the natural orifice, the water
9 shall be from the same underground stratum and be of
10 the same quality and composition as the water derived
11 from the natural orifice without external force. Mineral
12 water may not be altered by the addition or deletion of
13 minerals or by blending it with water from a nonmineral
14 water source, except that mineral water may be filtered
15 and shall be treated with ozone or an equivalent
16 disinfection process approved by the department and
17 shall be treated to reduce the concentrations of any
18 naturally occurring substance that exceeds the bottled
19 water safety standards established by the department.
20 Mineral water may be collected and transported by pipes,
21 tunnels, trucks, or similar devices. Any water that meets
22 the criteria of this paragraph may also be labeled “natural
23 mineral water.”

24 (A) Mineral water that contains carbon dioxide as it
25 emerges from the source and is bottled directly with its
26 entrapped gas, or from which the gas is mechanically
27 separated and later reintroduced into the water at the
28 time of bottling shall be labeled “naturally carbonated”
29 or “naturally sparkling.”

30 (B) Mineral water that contains carbon dioxide, other
31 than that naturally occurring in the source product, shall
32 be labeled with the words “carbonation added” or
33 “carbon dioxide added” when the carbonation is obtained
34 from a natural or manufactured source.

35 (4) “Mineralized water” means bottled or vended
36 water that meets the requirements of “mineral water”
37 except that the water contains added minerals.

38 (5) “Natural water” means bottled or vended spring,
39 artesian well, or well water that is unmodified by mineral
40 addition or deletion, except “natural water” may be

1 filtered and shall be sanitized with ozone or an equivalent
2 disinfection process and treated to reduce the
3 concentration of any substance that exceeds safety
4 standards established by the department.

5 (6) "Naturally sparkling water" means bottled water
6 or vended water with a carbon dioxide content from the
7 same source as the water. "Sparkling," "carbonated," or
8 "carbonation added" means bottled water or vended
9 water that contains carbon dioxide.

10 (7) "Purified water" means water produced by
11 distillation, deionization, reverse osmosis, or other
12 method meeting the definition of purified water in the
13 21st edition of the United States Pharmacopeia. Water
14 that meets the designation of this paragraph, and is
15 vaporized, then condensed, may be labeled "distilled
16 water."

17 (8) "Spring water" means water that issues by natural
18 forces out of the earth at a particular place. Bottled or
19 vended spring water may be derived from the natural
20 orifice or from a bore hole adjacent to the natural orifice.
21 If it is derived from the natural orifice by external force
22 or from a bore hole adjacent to the natural orifice, the
23 water shall be from the same underground stratum and
24 be of the same quality and composition as the water
25 derived from the natural orifice without external force.
26 Spring water may not be altered by the addition or
27 deletion of minerals or by blending it with water from a
28 nonspring water source, except that spring water may be
29 filtered and shall be treated with ozone or an equivalent
30 disinfection process. Spring water may be collected and
31 transported by pipes, tunnels, trucks, or similar devices.

32 (9) "Well water" means water from a hole bored into
33 the ground that taps the water of an aquifer, except that
34 well water may be filtered and shall be treated with ozone
35 or an equivalent disinfection process. Well water may not
36 be altered by the addition or deletion of minerals or by
37 blending it with water from a nonwell water source.

38 (10) Notwithstanding any other provision of this
39 section, water from a public water system that is

1 unprocessed by the bottler or vendor shall be labeled as
2 “unprocessed public drinking water.”

3 SEC. 5. Section 111178 is added to the Health and
4 Safety Code, to read:

5 111178. (a) ~~The labeling on all bottled~~ *notification*
6 *for all bottled, vended, and bulk deliveries for* water sold
7 in this state shall indicate every contaminant included in
8 subsection (b) of Section 165.110 of Subpart B of Part 165
9 of the Code of Federal Regulations and which is
10 contained in the water in an amount equal to or in excess
11 of the detection level for that contaminant, as prescribed
12 in consumer confidence regulations adopted pursuant to
13 Section 116470.

14 (b) With respect to each contaminant whose presence
15 is required to be ~~indicated on the label~~ *contained in a*
16 *notification* in accordance with this section, the ~~label~~
17 *notification* shall include the name of the contaminant,
18 the level of the contaminant found in the water, the
19 corresponding public health goal (PHG) or maximum
20 contaminant level goal (MCLG) if no public health goal
21 has been established, and the primary maximum
22 contaminant level (MCL), as stated in the same whole
23 numbered units.

24 ~~(c) If the acronyms PHG, MCLG, or MCL are used on~~
25 ~~the label, those terms shall be required to be spelled out~~
26 ~~in at least one place on the label.~~

27 (c) *Any bottler, distributor, vendor of bottled water,*
28 *or an owner or operator of any water-vending machine*
29 *or retail water facility shall provide notification regarding*
30 *the source of water, including whether the water is*
31 *derived from a public water system or a private water*
32 *system.*

33 SEC. 6. Section 111180 of the Health and Safety Code
34 is amended to read:

35 111180. Except as provided in Section 111080, any
36 bottled water or vended water, the quality of which is
37 below the quality required by this article, shall be labeled
38 with a statement of substandard quality, as prescribed by
39 subsection (b) of Section 165.110 of Subpart B of Part 165
40 of Title 21 of the Code of Federal Regulations.

1 ~~SEC. 7. Section 111185 of the Health and Safety Code~~
2 ~~is amended to read:~~

3 ~~111185. (a) Any bottler, distributor, vendor of~~
4 ~~bottled water, or owner or operator of any water-vending~~
5 ~~machine or retail water facility, whose corporate name or~~
6 ~~trademark contains the words “spring” or “springs,” or~~
7 ~~any derivative of either of these words, or “well,”~~
8 ~~“artesian well,” or “natural” shall label each bottle or~~
9 ~~vending machine with the source of the water in typeface~~
10 ~~at least equal to the size of the typeface of the corporate~~
11 ~~name or trademark, if the source of the bottled or vended~~
12 ~~water is different from the source stated in the corporate~~
13 ~~name or trademark. Retail water facilities that do not~~
14 ~~provide labeled containers shall post, in a location readily~~
15 ~~visible to consumers, a sign conveying required label~~
16 ~~information.~~

17 ~~—(b) (1) Any bottler, distributor, vendor of bottled~~
18 ~~water, or owner or operator of any water-vending~~
19 ~~machine or retail water facility shall, if the source of the~~
20 ~~water is a public water system, identify on the label the~~
21 ~~public water system.~~

22 ~~(2) Any bottler, distributor, vendor of bottled water,~~
23 ~~or owner or operator of any water-vending machine or~~
24 ~~retail water facility shall, if the source of the water is a~~
25 ~~private water system identify the private water source on~~
26 ~~the label. If the private water source has a proper or~~
27 ~~common name, such as a lake or river, the proper or~~
28 ~~common name of that source shall be sufficient to meet~~
29 ~~the requirements of this paragraph. If the water being~~
30 ~~used is from more than one source, all sources shall be~~
31 ~~listed on the label.~~

32 ~~SEC. 8.—~~

33 ~~SEC. 7. Section 111192 is added to the Health and~~
34 ~~Safety Code, to read:~~

35 ~~111192. (a) Delivered bottled water haulers and~~
36 ~~water haulers that distribute directly to consumers shall~~
37 ~~be required to provide to new consumers and in~~
38 ~~consumer bills at least once annually all information~~
39 ~~required to be included on bottled water labels pursuant~~
40 ~~to this article.~~

1 (b) Water vending machines shall display the same
2 information on the machines that is required to be placed
3 on bottled water labels pursuant to this article.

4 (c) Retail water facilities shall provide new customers
5 the same information required to be placed on bottled
6 water labels pursuant to this article. These facilities shall
7 also display this information in a take-home format.

8 ~~SEC. 9.—~~

9 SEC. 8. Section 111193 is added to the Health and
10 Safety Code, to read:

11 111193. (a) The department may by written
12 permission allow a person to package water for use in
13 public emergencies without obtaining a water bottling
14 license, where the emergency has resulted in the
15 interruption of, or has compromised the quality of, the
16 public drinking water supply. This permission may
17 authorize the suspension of any provision of this chapter
18 and related regulations.

19 (b) (1) The department may at any time change or
20 impose on the permittee any requirements such as
21 testing, equipment, and documentation that the
22 department deems necessary to protect public health but
23 in doing so shall consider the effect of those requirements
24 in light of the urgency of the situation. The department
25 may grant or withdraw this permission at any time.

26 (2) Packing, distribution, and use of water under this
27 permit shall only be allowed during the emergency
28 period and shall end upon the restoration of adequate
29 public drinking supplies as determined by the
30 department. Distribution shall be limited to the area
31 affected. Water so packaged shall be prominently labeled
32 “drinking water”, “for emergency use only”, and “not for
33 sale”, or similar wording approved by the department.

34 (c) This section shall not be construed to restrict
35 licensed water bottling plants from providing water
36 processed in accordance with this chapter in emergency
37 situations.

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